

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

For Online Publication Only

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EDGAR SANCHEZ, 07-A-1015,

Petitioner,

-against-

L. LILLEY, Superintendent,

Respondent.

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AZRACK, United States District Judge:

ORDER
23-CV-4568(JMA)

**FILED
CLERK**

7/27/2023 11:15 am

**U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE**

On June 14, 2023, incarcerated petitioner Edgar Sanchez (“petitioner”), acting *pro se*, filed a petition seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254 together with an application to proceed *in forma pauperis*. Petitioner seeks to challenge a 2006 judgment of conviction against him in the Supreme Court in the State of New York, County of Nassau, based on a jury verdict that found him guilty of murder in the second degree and tampering with physical evidence. *See* Pet., Docket Entry No. 1 at ¶¶ 1, 3, 5. Petitioner previously filed a writ of habeas corpus under §2254 challenging the same conviction. In an Memorandum and Order dated August 6, 2014, the Honorable Joanna Seybert denied that petition. *See Sanchez v. Rock*, 12-CV-1605(JS) at Docket Entry No. 14. Plaintiff moved for a certificate of appealability and that application was denied by Mandate issued on April 14, 2015. *See* Docket Entry Nos. 17, 20.

Upon review of the declaration accompanying petitioner’s application to proceed *in forma pauperis*, the Court finds that petitioner’s financial status qualifies him to commence this action without prepayment of the filing fees. *See* 28 U.S.C. §1915(a)(1). Accordingly, petitioner’s application to proceed *in forma pauperis* is granted. However, for the reasons that

follow, the petition is transferred to the United States Court of Appeals for the Second Circuit pursuant to 28 U.S.C. § 1631.

The Antiterrorism and Effective Death Penalty Act “allocates jurisdiction to the courts of appeals, not the district courts, to authorize successive habeas motions or applications.” *Torres v. Senkowski*, 316 F.3d 147, 151 (2d Cir. 2003). Accordingly, petitioner must move for authorization to pursue this successive petition for habeas relief in the United States Court of Appeals for the Second Circuit. *See* 28 U.S.C. § 2244(b)(3)(A). In the interest of justice, the Clerk of Court shall transfer this petition to the United States Court of Appeals for the Second Circuit pursuant to 28 U.S.C. § 1631. *Torres*, 316 F.3d at 151-52 (citing *Liriano v. United States*, 95 F.3d 119, 121-23 (2d Cir. 1996) (“[W]e have held that a district court must transfer uncertified successive motions to th[e Second Circuit Court of Appeals] pursuant to 28 U.S.C. § 1631. . . .”). This order closes this case. If the Second Circuit authorizes petitioner to proceed in this matter, he shall move to reopen this docket number, 23-CV-4568(JMA).

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith, and *in forma pauperis* status is therefore denied for the purpose of any appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

Dated: July 27, 2023
Central Islip, New York

/s/ (JMA)
JOAN M AZRACK
UNITED STATES DISTRICT JUDGE